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## **DEPARTMENT OF HOMELAND SECURITY**

### **U.S. Customs And Border Protection**

**[CBP Dec. 15-10]**

#### **Designation of an Enhanced Driver's License and Identity Document Issued by the State of Minnesota as a Travel Document Under the Western Hemisphere Travel Initiative**

**AGENCY:** U.S. Customs and Border Protection, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces that the Commissioner of U.S. Customs and Border Protection is designating enhanced driver's licenses and identity documents issued by the State of Minnesota as acceptable documents for purposes of the Western Hemisphere Travel Initiative. These documents may be used to denote identity and citizenship of U.S. citizens entering the United States from within the Western Hemisphere at land and sea ports of entry.

**DATES:** This designation is effective [INSERT DATE OF PUBLICATION IN THE Federal Register].

**FOR FURTHER INFORMATION CONTACT:** Arthur A. E. Pitts, Director, Traveler Policies Division, Admissibility and Passenger Programs, Office of Field Operations, U.S. Customs and Border Protection, via e-mail at [arthur.a.pitts@cbp.dhs.gov](mailto:arthur.a.pitts@cbp.dhs.gov).

## **SUPPLEMENTARY INFORMATION:**

### **Background**

#### The Western Hemisphere Travel Initiative

Section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), Pub. L. 108-458, as amended, required the Secretary of Homeland Security (Secretary), in consultation with the Secretary of State, to develop and implement a plan to require U.S. citizens and individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)) to present a passport or other document or combination of documents as the Secretary deems sufficient to denote identity and citizenship for all travel into the United States. See 8 U.S.C. 1185 note. On April 3, 2008, the Department of Homeland Security (DHS) and the Department of State promulgated a joint final rule, effective on June 1, 2009, that implemented the plan known as the Western Hemisphere Travel Initiative (WHTI) at U.S. land and sea ports of entry. See 73 FR 18384 (the WHTI land and sea final rule). It amended various sections of title 8 of the Code of Federal Regulations (CFR), including 8 CFR 212.0, 212.1, and 235.1. The WHTI land and sea final rule specifies the documents that U.S. citizens and nonimmigrant aliens from Canada, Bermuda, and Mexico are required to present when entering the United States at land and sea ports of entry from within the Western Hemisphere (which includes contiguous territories and adjacent islands of the United States).

Under the WHTI land and sea final rule, one type of citizenship and identity document that U.S. citizens may present upon entry to the United States is an enhanced

driver's license or identification document<sup>1</sup> (EDL) designated as an acceptable document to denote identity and citizenship by the Secretary pursuant to section 7209 of IRTPA, as amended. Section 235.1(d) of title 8 of the Code of Federal Regulations, as amended by the WHTI land and sea final rule, states:

Upon designation by the Secretary of Homeland Security of an enhanced driver's license as an acceptable document to denote identity and citizenship for purposes of entering the United States, U.S. citizens and Canadians may be permitted to present these documents in lieu of a passport upon entering or seeking admission to the United States according to the terms of the agreements entered between the Secretary of Homeland Security and the entity. The Secretary of Homeland Security will announce, by publication of a notice in the **Federal Register**, documents designated under this paragraph. A list of designated documents will also be made available to the public.

The Secretary has delegated to the Commissioner of U.S. Customs and Border Protection (CBP) the authority to designate certain documents as acceptable border crossing documents for persons arriving in the United States by land or sea from within the Western Hemisphere, including state-specific EDLs. See DHS Delegation Number 7105 (Revision 00), dated January 16, 2009.

#### EDL Programs

DHS is committed to working with the various States of the Union and the Government of Canada to facilitate the development of State and province-issued EDLs as travel documents that denote identity and citizenship as required under section 7209 of

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<sup>1</sup> The enhanced driver's license or identification document may be in one of two forms, as decided by the issuing authority, provided that the document (card) denotes identity and citizenship and meets technical requirements: (1) An enhanced driver's license or (2) an enhanced identity card. The designation "EDL" covers both documents.

IRTPA, as amended. As part of the process, CBP will enter into one or more agreements with a State that specifies the requirements for developing and issuing WHTI-compliant EDLs, including a testing and auditing process to ensure that the cards are produced and issued in accordance with the terms of the agreements.

After production of the cards in accordance with the specified requirements, and successful testing and auditing by CBP of the cards and program, the Secretary of DHS or the Commissioner of CBP may designate the EDL as an acceptable WHTI-compliant document for the purpose of establishing identity and citizenship when entering the United States by land or sea from contiguous territory or adjacent islands. Such designation will be announced by publication of a notice in the **Federal Register**. More information about WHTI-compliant documents is available at [www.cbp.gov/travel](http://www.cbp.gov/travel).

#### Minnesota EDLs

The State of Minnesota (Minnesota) has established a voluntary program to develop EDLs that would denote identity and citizenship. On October 1, 2012, CBP and Minnesota entered into a Memorandum of Agreement (MOA) to develop, issue, test, and evaluate an enhanced driver's license and identification card with facilitative technology to be used for border crossing purposes. On November 21, 2012, CBP approved the plan outlining the business process for the implementation of the Minnesota EDL program. Under the terms of the MOA and business plan, Minnesota will only issue EDLs to U.S. citizens. EDLs also may be issued as photo identification cards to non-drivers. The cards are to incorporate physical security features acceptable to CBP as well as facilitative technology allowing for electronic validation of identity and citizenship.

Subsequently, CBP and Minnesota entered into two related agreements, a December 11, 2012 service level agreement and an April 15, 2013 security agreement. The former memorializes the technical specifications for the production, issuance and use of the card, and the latter addresses confidentiality and information sharing.

CBP has tested the cards developed by Minnesota pursuant to the above agreements and has performed an audit of Minnesota's EDL program. On the basis of these tests and audit, CBP has determined that the cards meet the requirements of section 7209 of IRTPA and are acceptable documents to denote identity and citizenship for purposes of entering the United States at land and sea ports of entry from contiguous territory or adjacent islands. CBP's continued acceptance of the Minnesota EDL as a WHTI-compliant document is conditional on compliance with the MOA and all related agreements.

Acceptance and use of the WHTI-compliant EDL is voluntary. If an individual is denied a WHTI-compliant EDL, he or she may still apply for a passport or other WHTI-compliant document.

#### Designation

This notice announces that the Commissioner of CBP designates the EDL issued by Minnesota in accordance with the MOA and all related agreements between Minnesota and CBP as an acceptable document to denote identity and citizenship pursuant to section 7209 of IRTPA and 8 CFR 235.1(d). Therefore, pursuant to 8 CFR 235.1(d), U.S. citizen holders of Minnesota EDLs may present these EDLs as an alternative to a passport upon entering the United States at all land and sea ports of entry

when coming from contiguous territory and adjacent islands from within the Western Hemisphere.

Dated: July 7, 2015.

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R. Gil Kerlikowske,  
Commissioner.

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